IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 977 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ASHA ASHOKKUMAR DIGHA - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR AM RAVAL for Petitioner(s) : 1,
RULE SERVED for Respondent(s) : 1,
MS ARCHNA RAVAL, AGP for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 01/05/2006

ORAL JUDGMENT

1.The petitioner working as Auxiliary Nurse and Mid-wife in the Employees State Insurance Scheme Organisation, has filed the present petition seeking a pay scale of Rs.380-560/- with effect from 1/1/1973. The demand of

the petitioner is based primarily on the premise of equal pay for equal work. The petitioner places heavy reliance on the decision of the Learned Single Judge of this Court dated 25-01-1995 passed in Special Civil Application No. 1351/1982 in case of Indiraben D. Christian v/s. State of Gujarat and another. It is the case of the petitioner that under identical circumstances other employees had succeeded in establishing before this Court that their pay should be fixed in the scale of Rs. 380-560/- with effect from 1/1/1973. The petitioner claims similar benefits being similarly situated.

2. Affidavit in reply has been filed opposing the petition. However, learned AGP Ms. Archana Raval does not dispute the averment of the petitioner that her case is similar to one decided by Learned Single Judge of this Court in the above-mentioned judgement. She however, points out that State Government had challenged the decision of the Learned Single Judge before the Division Bench of this Court in Letters Patent Appeal No. 523/1995. Letters Patent Appeal came to be allowed by judgement dated 30-07-2003 and the decision of Learned Single Judge dated 25-01-1995 was

set aside. In view of the above decision of Division Bench in Letters Patent Appeal no.523/1995, I find that the petitioner cannot succeed in getting the relief as prayed for. On her own account, the petitioner was similarly situated to the employees who had filed Special Civil Application No.1351/1982 which came to be allowed by Learned Single Judge of this Court by judgement dated 25-01-1995. However, subsequently, Division Bench has set aside the order of Learned Single Judge. The case of the petitioner on the similar ground must fail.

3. In the result, the petition is rejected. Rule is discharged with no order as to costs.

(Akil Kureshi,J.)

(raghu)